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10/712,677	11/13/2003	Christopher W. Kempin	RSW920030198US1	9089
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			EXAMINER	
			PHAN, TUANKHANH D	
			ART UNIT	PAPER NUMBER
			2153	
			MAIL DATE	DELIVERY MODE
			10/02/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/712,677

Applicant(s)

KEMPIN ET AL.

Examiner

TuanKhanh Phan

Art Unit

2153

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

This Action is in response to Applicant's amendment and request for reconsideration filed on August 13, 2007. Claims 1, 7 and 10 have been amended. Claims 1-11 are pending.

Response to Arguments

Applicant's arguments filed on Aug. 13, 2007 have been considered, but they are not persuasive.

Issue No.1, applicant argues that Childress does not teach once the status of an endpoint is changed to removed, that the gateway device will stop sending to the server messages relating to the failure to receive the periodic signal from the endpoint device. Response: Childress teaches once the device has failed and a FATAL TEC even has been sent, there will no more messages since this is the highest threshold (§§115-116) and there is no additional health check or signal need to be processed if the node is down (§§ 0061, lines 3-8). Applicant's argument therefore is not persuasive.

Issue No. 2, applicant argues that Childress fails to set the status of the endpoint in the monitored list to a Removed state, which indicates the endpoint has been removed from the monitored list. Response: it is inherent that Childress teaches if a node has reached critical and or fatal error the operation and health monitor end for that node (§§ 0121, lines 3-8), then the list of monitored node is update (§§0114-0115). Thus, applicant's argument is not persuasive.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-6 and 11 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

Regarding claims 1 (line 13) and 11 (line 14), the language of claims where the gateway device is “capable of not” sending state change. It is unclear how this limitation is intended to limit the claimed gateway device. All gateway devices are “capable of not” sending state change?

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device.

Regarding claims 2-6, they are rejected for being dependents on a rejected claim.

Claim Objections

Claims 10 and 11 are objected to because of the following informalities:

Line 1 of claim 10 states, “the integrity of a endpoint...” where it should recite, “the integrity of an endpoint...”

Line 10 of claim 11 states, “the gateway means being capabale of...” where it should recite, “the gateway means being capable of...”

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Childress et al. (US Pub. 2004/0010716).

Regarding claims 1, 7, 10 and 11, Childress et al. teach a system and a method for monitoring the integrity of a plurality of endpoints and a communication channel between the plurality of endpoints and a gateway device (abstract; ¶ 032), comprising: an endpoint having a monitoring application for monitoring the integrity of the endpoint (abstract, "health monitoring agent"), the monitoring application at a predetermined time sending a periodic signal through a communication channel to the gateway device indicating the integrity of the endpoint (¶ 092; ¶ 112, "predetermined time intervals"); a server having a centralized database listing the status of the endpoint (abstract); and a gateway device in communication with the server and with the endpoint (¶ 112), the gateway device including a monitored list listing the status of the endpoint in

Art Unit: 2153

communication with the gateway device (§§ 099, 0117, 0121) the gateway device being capable of selectively sending a state change message to the server if the gateway device fails to receive a periodic signal from the endpoint and if the status of the endpoint is either in a Healthy state (§§ 096), which indicates the endpoint is functioning properly, or a Trouble state (§§ 096), which indicates the endpoint has failed once, the gateway device further being capable of not sending the state change message to the server upon a failure to receive the periodic signal from the endpoint if the status of the endpoint is in a Removed state (§§ 096, "Fatal").

Regarding claim 2, Childress et al. teach the system of claim 1, wherein the periodic signal is sent through a data channel connecting the endpoint and the gateway (abstract; §§ 112; §§ 114; §§ 115).

Regarding claim 3, Childress et al. teach the system of claim 1, wherein the status of the endpoint is set to the Trouble state when the gateway device fails to receive the periodic signal from the endpoint and the status of the endpoint is in the Healthy state (§§ 096, "Harmless"; §§ 117, "Normal").

Regarding claim 4, it is inherent to one of ordinary skill in the art that Childress et al. teach the system of claim 1, wherein the status of the endpoint enable to set for removal when the gateway device fails to receive the periodic signal from the endpoint once the status is update from Critical state to Fatal state.

Regarding claim 5, Childress et al. teach the system of claim 1, wherein the centralized database has a plurality of entries (abstract; §§ 017), each entry being

Art Unit: 2153

associated with one endpoint, the status of the endpoint (abstract), and the gateway device associated with the endpoint (abstract; ¶ 092).

Regarding claim 6, Childress et al. teach the system of claim 1 further comprising a timer (¶ 119), wherein the timer is associated with the endpoint.

Regarding claim 8, Childress et al teach the method of claim 7, further comprising the steps of: determining if a timer associated with the endpoint has expired (¶ 119, "exceeded"; if the timer has expired, determining the status of the endpoint associated with the timer (Table 2); if the status of the endpoint is the Healthy state (¶ 096), setting the status of the endpoint to the Trouble state; if the status of the endpoint is the Trouble state (¶ 096), setting the status of the endpoint to the Removed state (¶ 096, "Fatal"); and resetting the timer (¶ 094).

Regarding claim 9, Childress et al. teach the method of claim 7, further comprising the steps of " receiving a configuration signal from the endpoint (¶ 111); determining if the endpoint is listed in the monitored list (¶ 111-115); and if the endpoint is not listed in the monitored list, adding the endpoint to the monitored list and transmitting a configuration signal to the server (abstract; ¶ 111-115).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Bruck et al. US Pat. 6,801,949. Oct. 5, 2004. Bruck et al. discloses a distributed server cluster with graphical user interface.

Art Unit: 2153

Ludovici et al. US Pat. 6,636,898. Oct. 21, 2003. Ludovici et al. teaches system and method for central management of connections in a virtual private network.

Nurenberg et al. US Pat. 6,181,697. "Method for a Unicast Endpoint Client..."
Jan. 30, 2001.

Sherman Michael. US Pat. 5,974,236. Date Oct. 26, 1999. Sherman discloses Dynamically reconfigurable communication network and method.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

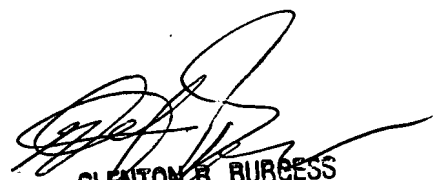
Any inquiry concerning this communication or earlier communications from the examiner should be directed to TuanKhanh Phan whose telephone number is 571-270-3047. The examiner can normally be reached on Mon to Fri, 8:00am to 4:30pm EST, 1st Friday off.

Art Unit: 2153

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton B. Burgess can be reached on 571-272-3949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TKP



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